

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0166P

Use Tax

Calendar Years 1994, 1995, 1996

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ISSUE(S)

I. Use Tax – Exemption Certificates

Authority: 45 IAC 2.2-8-6; 45 IAC 2.2-8-12

Taxpayer protests sales tax assessed.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

An audit was completed on February 11, 1998. Taxpayer failed to collect sales tax on taxable leases and failed to self assess use tax on clearly taxable items.

ISSUE

I. Use Tax – Exemption Certificates

DISCUSSION

Taxpayer provided a "Special Sales/Use Tax Exemption Certificate"; Form AD-70 dated February 12, 1998 for one of its customers. The department has accepted the certificate.

FINDING

Taxpayer's protest is sustained.

ISSUE

II. Tax Administration – Penalty

DISCUSSION

Taxpayer's audit report revealed that no use tax accrual system was in place. The ST-103's clearly have an area in which to report purchases where no sales tax was collected. The taxpayer failed to self assess as required by statute and was made aware in a prior related audit that use tax should be self assessed. Taxpayer failed to make corrections, therefore the penalty is appropriate.

FINDING

Taxpayer's protest is denied.

CONCLUSION

Taxpayer's protest is sustained in issue I and denied in Issue II.